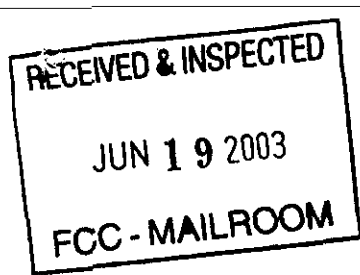


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June 18, 2003

SENT BY FEDERAL EXPRESS

Marlene H. Dortch, Secretary  
Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Re: Reply of Garwood Broadcasting of Texas to  
Opposition of Sandlin Broadcasting Co., Inc. to  
"Motion for Leave to File Supplement To Petition  
For Reconsideration" and "Supplement to Petition for  
Reconsideration" Filed by Garwood Broadcasting Company  
of Texas in Media Bureau Docket 99-331; Madisonville  
Texas, et.al. FM Rulemaking Proceeding .

Dear Ms. Dortch:

Transmitted herewith is an original and eleven copies of  
the above-captioned Reply To Opposition as directed to the  
Assistant Chief of the Audio Division of the Media Bureau.

It is requested that the additional enclosed copy of the  
filing marked "FILE" be date-stamped and returned to us in the  
enclosed self-addressed stamped envelope.

Should any additional information be required, please  
contact this office.

Very truly yours,

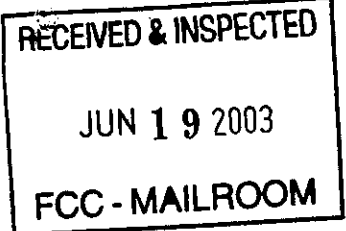
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Robert J. Buenzle  
Counsel for Garwood Broadcasting  
Company of Texas

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Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C.



In the Matter of	)	MM Docket No. 99-331
	)	
Amendment of Section 73.202(b)	)	RM-9848
Table of Allotments	)	
FM Broadcast Stations	)	
(Madisonville, and	)	
College Station, Texas)	)	
To: Assistant Chief,		
Audio Division		
Media Bureau		

**REPLY TO OPPOSITION**

On May 30, 2003, Garwood Broadcasting Company of Texas ("hereinafter "Garwood") filed a "Supplement to Petition for Reconsideration" (along with a Motion for leave to file) in this proceeding bringing to the Commission's attention a recent action by the Media Bureau which is relevant to the issues before the Commission to be decided in the instant case. On June 9, 2003, Sandlin Broadcasting Co., Inc. (hereinafter "Sandlin") filed an Opposition to the Supplement and the Motion for leave to file the Supplement. For the reasons set forth below, Garwood submits that the Sandlin Opposition is without merit and that the Garwood Motion to file should be granted and the proffered Supplement considered. In support whereof the following is submitted:

The essential point of the Archer City case (Notice of Proposed Rulemaking, Archer City, Texas, DA 03-1534) was the Commission's expressed concern with a petitioner that had requested and received a channel upgrade, only to then ignore that granted request for the next three years. The Commission

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recognized in Archer City that such an action was wasteful and had a "preclusionary impact" (i.e. that no one else could make use of that channel) and indicated that such an action was unacceptable and would not be tolerated. In releasing a Notice of Proposed Rulemaking on its own motion, it then set procedures in motion to take the upgrade away from the petitioner in Archer City, giving that petitioner one last chance to file the application for construction permit to effectuate the upgrade that had been previously granted in the rulemaking proceeding.

In its Opposition, Sandlin seeks to distinguish Archer City from the instant case but its claims simply do not bear scrutiny. In so doing it completely ignores the essential consideration and concern of both cases of a petitioner that has requested an upgrade in a rulemaking proceeding only to warehouse it unbuilt, the obvious and unmistakable common thread between Archer City and Sandlin in the instant case, and instead focuses on matters either factually wrong or totally irrelevant to that consideration. It notes that the upgrade for KRZB at Archer City was at a fully spaced site, apparently alluding to a difference in the instant case where Garwood has proposed replacing the existing operation of Sandlin's KMKS on short-spaced channel 273C2 (where it has operated on the short-spaced C2 channel for the past sixteen years) with an equivalent operation on channel

259C2 at the same KRZB site 1/ Why Sandlin believes this to be a relevant "difference" to be considered in the "warehousing" concern is a mystery.

It then refers to the "removal" of the "only full time service to a community" which is NOT Sandlin's community and has nothing to do with Sandlin's own station or channel allocation. Moreover, Sandlin failed to note the existence of an AM station located in that other community and that the Commission found no problem or concern with that proposed reallocation in its Report and Order (DA 03-144)

Similar comments by Sandlin as to changes in other communities and their existing or proposed allocations were also considered by the Commission in the Report and Order without any objection or concern, and are just as irrelevant to the question before the commission as posed in the Garwood Petition for Reconsideration and as discussed in principal in Archer City. The essential fact in Archer City and the essential fact in this case is what to do about a petitioner that has requested an upgraded channel that is then granted, and then subsequently warehoused unbuilt and wasted by the petitioner, and that is the one question totally unaddressed and ignored by Sandlin in its Opposition, and no wonder.

---

1/ Moreover, in its Petition for Reconsideration, Garwood has offered a replacement of the actual existing KMKS operation on 273C2 with 259C1, also consistent with FCC rule 73.215, at the same KMKS site, should the Commission conclude that Sandlin really deserves any further consideration based upon its past record in this case.

For, to be sure, there are some major differences of degree between the petitioner in Archer City and Sandlin in the instant case and they are this:

The first essential difference between Archer City and Sandlin in the instant case is that in Archer City the requested channel has been warehoused unbuilt for only 3 years whereas in our case it has been warehoused unbuilt and unused by Sandlin for TWELVE YEARS.

The second essential difference is that in Archer City, the petitioner has thus far defaulted on only one promise to use the upgraded channel (made in requesting the rulemaking upgrade), whereas in our case Sandlin has already defaulted on TWO representations to build made to the Commission, one in the rulemaking and one in filing for a construction permit (which was granted by the FCC and then subsequently ignored and abandoned by Sandlin). In sum, the Commission's concerns as expressed in Archer City serve to underscore the much more egregious abuse by Sandlin in the instant case.

Wherefore, it is respectfully submitted that the Sandlin Opposition is without merit and that the Garwood Motion for leave to submit its Supplement should be granted, and the Supplement considered in conjunction with Garwood's Petition for Reconsideration, and thus considered, that the Garwood Petition for Reconsideration should be granted.

Respectfully submitted,

GARWOOD BROADCASTING COMPANY OF TEXAS

by 

Robert J. Buenzle

Its Counsel

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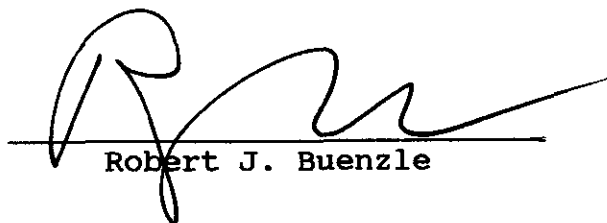
June 19, 2003

CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing Reply to Opposition have been served by United States mail, postage prepaid this 19th day of June, 2003, upon the following:

John A. Karousos, Esq.  
Assistant Chief, Audio Division  
Office of Broadcast License Policy  
Media Bureau  
Federal Communications Commission  
Portals II, Room 3-A266  
445 12th Street SW  
Washington, D.C. 20554

Sandlin Broadcasting Co. Inc.  
Radio Station KMKS(FM)  
P.O. Box 789  
Bay City, Texas 77404



Robert J. Buenzle